

FILED

2008 FEB 11 PM 12:39

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY Rm DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUNE THEPSOMBANDITH,

Petitioner,

v.

V.M. ALMAGER, Warden,

Respondent.

Civil No. 07cv2248 BEN (RBB)

**ORDER DENYING IN FORMA
PAUPERIS APPLICATION AND
DISMISSING CASE WITHOUT
PREJUDICE AND WITH LEAVE TO
AMEND**

On November 27, 2007, Petitioner, a state prisoner proceeding pro se, filed a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. [Doc. No. 1.] On December 3, 2007, the Court dismissed Petitioner's case for failure to pay the \$5.00 filing fee or moved to proceed in forma pauperis. [Doc. No. 3.]

Petitioner filed a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a) on December 3, 2007. [Doc. No. 4.] The Court dismissed the case without prejudice and with leave to amend because Petitioner had failed to provide the Court with sufficient information, in the form of a certified trust account statement from the institution in which he is incarcerated, for the Court to determine Petitioner's financial status. [Doc. No. 5.] Petitioner was given until February 4, 2008, to provide the Court with the information.

1 On January 3, 2008, Petitioner filed second motion to proceed in forma pauperis but did
2 not include sufficient information to determine Petitioner's financial status, i.e. a certified trust
3 account statement from the institution in which Petitioner is incarcerated. A request to proceed
4 in forma pauperis made by a state prisoner must include a certificate from the warden or other
5 appropriate officer showing the amount of money or securities Petitioner has on account in the
6 institution. See Rule 3(a)(2), 28 U.S.C. foll. § 2254; Local Rule 3.2.

7 Accordingly, the Court **DENIES** the request to proceed in forma pauperis, and
8 **DISMISSES** the case without prejudice and with leave to amend. To have the case reopened,
9 Petitioner must, no later than **April 14, 2008**, provide the Court with: (1) a copy of this Order
10 together with the \$5.00 filing fee; or (2) a copy of this Order together with adequate proof that
11 Petitioner cannot pay the \$5.00 filing fee.

12 PETITIONER IS ADVISED THAT IF HE DOES NOT PROVIDE THE COURT WITH
13 THE \$5.00 FILING FEE OR ADEQUATE PROOF OF HIS INABILITY TO PAY THE FEE
14 BY APRIL 14, 2008, THE CASE WILL BE DISMISSED WITHOUT FURTHER LEAVE TO
15 AMEND AND HE WILL BE REQUIRED TO START OVER BY FILING A NEW PETITION
16 WHICH WILL BE GIVEN A NEW CIVIL CASE NUMBER

17 **THE CLERK OF COURT IS DIRECTED TO MAIL PETITIONER A BLANK**
18 **MOTION TO PROCEED IN FORMA PAUPERIS.**

19 **IT IS SO ORDERED.**

20
21 DATED: 2/02/08


22 Roger T. Benitez
23 United States District Judge
24
25
26
27
28